

<sup>1</sup> The District Attorney has a duty to represent the Board pursuant to OKLA. STAT. tit. 19, § 215.4.

(repealed) required the County Attorney, also known as the District Attorney, to appear and represent a drainage district in dissolution proceedings.<sup>2</sup> Id. District 12 further alleges that “the conduct of the District Attorney’s office personnel in dealing with this [d]efendant prior to filing of [p]laintiff’s petition, and since, has resulted in the violation” of the Rules of Professional Conduct. Id. at 8.

The Board, on the other hand, responds with two arguments. The Board claims that the “District Attorney and his Assistants have never represented or advised [] [District 12] in any capacity since its inception.” Dkt. # 2-4, at 57. The Board further claims that OKLA. STAT. tit. 82, § 447 violated the Oklahoma Constitution “to the extent it attempt[ed] to make” the District Attorney the counsel for District 12, because District 12 is not an agency, instrumentality, office, department, board or commission of Tulsa County but is merely an association. Id. at 58-63.

The Court will not address the constitutionality of a repealed statute. The issue properly before the Court is whether the District Attorney and his assistants are disqualified from representing the Board because of an actual or potential conflict of interest. The Court finds that District 12 has failed to allege any facts whatsoever detailing: (i) a current or former attorney-client relationship between the District Attorney and District 12, (ii) the exchange of confidential communications between the District Attorney or his assistants and District 12, or (iii) other professional misconduct by the District Attorney or his assistants. The Court concludes, therefore, that District 12’s motion should be denied without prejudice.

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<sup>2</sup> The Oklahoma legislature repealed section 447 in 1972. The repeal included a savings clause, which provides that all the drainage districts formed pursuant to Oklahoma law shall have the right to continue to operate pursuant to the “Drains and Ditches” Chapter subsections. OKLA. STAT. tit. 82, § 1085.16.

**IT IS THEREFORE ORDERED** that Defendant's Motion for Disqualification of District Attorney (Dkt. # 6) is **denied** without prejudice.

**DATED** this 29th day of November, 2007.

  
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CLAIRE V. EAGAN, CHIEF JUDGE  
UNITED STATES DISTRICT COURT